

**ANNEX D: PROCEDURE FOR PROJECT PARTICIPANTS TO RESOLVE DISPUTES
WITH THE PHILIPPINES RELATING TO THE APPLICATION OF
CORRESPONDING ADJUSTMENTS**

1. This Annex sets out the procedure by which a project participant may seek to resolve a dispute with the Philippines relating to the application of corresponding adjustments.
2. Where a project participant is of the view that the Philippines has not applied corresponding adjustments in accordance with Article 9 (Corresponding Adjustments), the project participant may deliver to the Philippines through the Department of Environment and Natural Resources a written request for consultations setting out a brief description of the relevant facts, including: (a) the legal basis of the claim; and (b) relevant documentary and other evidence. The project participant and the Philippines should initially seek to resolve the dispute through consultations and negotiations, which may include the use of non-binding, third party procedures, such as good offices, conciliation or mediation through diplomatic channels.
3. Within five working days of the receipt by the Philippines of the written request for consultations, the Philippines shall forward a copy of the request to the Joint Committee.
4. If the dispute has not been resolved within six months of the receipt by the Philippines of the written request for consultations, the project participant may submit the dispute to arbitration under the Permanent Court of Arbitration's Arbitration Rules 2012, or if the project participant and the Philippines agree, any other arbitral institution or any other arbitration rules. The Philippines consents to the submission of any dispute to arbitration in accordance with this Annex, and such consent shall be deemed to satisfy the requirements for an 'agreement in writing' under Article II of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York, 10 June 1958.
5. When the dispute is resolved, the Philippines shall inform the Joint Committee about the outcome of the dispute.
6. As a condition for submitting a dispute to arbitration under paragraph 4 of this Annex, the project participant must provide a written waiver of its right to initiate or continue before any court or administrative tribunal of the Philippines, or under any other dispute settlement procedures, any proceedings with respect to the dispute.